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TAGS: [PGOV](#) [PREL](#) [UP](#)
SUBJECT: UKRAINE: PRESIDENT AND PM REACH GENERAL AGREEMENT
ON EARLY ELECTIONS

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Classified By: Ambassador for reasons 1.4(a,b,d).

11. (SBU) Summary. President Yushchenko and Prime Minister Yanukovych on May 4 finally reached a preliminary agreement to hold early Rada elections, after more than a week when the two leaders did not speak. At a press conference after the meeting, Yushchenko announced that a working group would begin work immediately to hammer out the details over two days--and that a (new) presidential decree would set the date in the context of agreements reached by the working group, in roughly 60 days (subsequent speculation focused on July 8). He also implied that the package deal would include legislative work, possibly on imperative mandate, the CabMin law, a new parliamentary election law, and budget amendments to fund the election. Yanukovych provided similar details to a pro-coalition demonstration on the Maidan, adding that elections were the way out of the political crisis and would happen in "the near future." Other signs of impending compromise related to election preparations emerged over the last 24 hours. The CEC has been moving to form the District Election Commissions that will run the elections; on May 3 the Cabinet approved a budget allocation to fund a new state voter registry system which would come into force on October 1, and on May 4, prior to announcement of the deal, the Rada voted for the Cabinet to set aside funding for early elections, although still insisting that they be concurrent presidential and parliamentary votes.

12. (C) Comment: The agreement comes after a week of more aggressive tactics on Yushchenko's part over a normally quiet holiday weekend. Yushchenko dismissed two Constitutional Court Judges appointed by Kuchma, but his decision May 4 to nominate two former MPs from pro-Kuchma parties as replacements appeared to send a signal of his willingness to compromise. Yushchenko met with Regions' heavyweights Bohatyreva and Akhmetov May 3, Deputy Presidential Secretariat head Chaliy told Ambassador May 4, paving the way

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for the deal with Yanukovych. Chaliy suggested that Regions might get the first chance to form a government (as the presumed plurality winner), and that a broad post-election coalition between Regions and Our Ukraine was possible. End comment.

Agreement is Reached, But Devil is in the Details

13. (SBU) Late in the afternoon May 4, Yushchenko announced that he and Yanukovych had agreed that there would be early elections. The next step would be a working group to work out the details over two days on the legislative and political

issues to be addressed before elections were held. The working group includes: Deputy Head of the Secretariat Vasyunyk, former Rada Speaker Plyushch, Tymoshenko, and OU leader Kyrylenko for Yushchenko/opposition's side, and Regions leader Bohatyreva, First Deputy Rada Speaker Martynyuk, and other coalition members to be named later representing Yanukovych/coalition. (Embassy Note: No Socialist party members have yet been named to the Working Group. Yushchenko mentioned at his press conference that he didn't know what Moroz thought about the deal, but one Socialist MP told the press that the Party of Regions had betrayed them. End Note.) The working group's proposals would then be considered May 7, with the Rada then meeting for a one-day session on May 8 to hear the proposals, allocate money for elections, and amend legislation on the CabMin, imperative mandate, and other key issues.

¶4. (SBU) Yanukovych went straight from the meeting with the President to address a 10,000 plus coalition rally on the Maidan, where to cheering and dancing he announced the agreement. Like Yushchenko, he did not offer much detail beyond agreeing that elections were the best way out of the political crisis and that the Ukrainian people should decide, adding that Regions was confident of victory.

¶5. (C) Comment. Given how many questions still need to be resolved, the working group faces a daunting task. Yushchenko said that while the Rada can come back temporarily, it will not come back into session full-time because his April 26 decree canceling parliament's authority remained in force. The President was also vague when asked by journalists about the ongoing Constitutional Court reviews of his decree. People's Self-Defense Leader Lutsenko floated the idea of a July 8 election, which could be logical if the coalition and opposition agree on the working group's proposals on May 7-8. End comment.

Chaliy Provides Detail

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¶6. (C) Deputy Head of the Presidential Secretariat Chaliy offered some interesting prognoses on how the compromise might play out to Ambassador May 4. He said that Yushchenko had met May 3 with Regions' heavyweights Akhmetov and Bohatyreva separately in preparation for the meeting with Yanukovych. Yushchenko also sat down with Tymoshenko and Kyrylenko May 4 prior to meeting Yanukovych. Chaliy said they are flexible on the date for the elections. Chaliy also suggested that one proposal was that the party that wins the plurality will have the first shot at forming a coalition, and that a broad coalition, with at least Our Ukraine and Regions, was a real possibility after the elections. He also suggested that if that scenario came to pass, they would offer Tymoshenko the Rada Speaker position - a proposal first broached publicly in mid-April by influential journalist Yuliya Mostova and privately by her husband, Defense Minister Hrytsenko, to Ambassador.

Yushchenko's Surprise Court Nominees

¶7. (SBU) In the political machinations surrounding the compromise, Yushchenko unexpectedly announced May 3 and 4, respectively, that his nominees to take the two spots on the Constitutional Court vacated by recently fired Judges Stanik and Pshenychnyi were two lawyers -- both without "orange" credentials and both previously associated with President Kuchma. His first nominee was former MP and lawyer Stepan Havrysh--a loyal Kuchma supporter who played a role in getting constitutional reform pushed forward, defended Yanukovych in front of the Supreme Court in December 2004, and ran for the Rada on Medvedchuk's Ne Tak! bloc in 2006. The second nominee, lawyer Vasyl Kostyskiy, is also a former Rada member, who has been in a number of pro-Kuchma parties and

served as deputy Finance Minister in 2004 under current DPM and Regions' heavyweight Azarov. Havrysh on May 4 expressed surprise at his nomination.

¶8. (C) Comment. Yushchenko may have selected judges from outside the orange camp as a sign of willingness to compromise. The two nominees cannot take their seats on the CC until the Rada administers the oath of office, meaning that either the nominations will not move forward until after new elections or they will be part of a political compromise for the temporary Rada session. Opinion on Havrysh's qualifications are mixed, but he has extensive legal experience; Kostyskiy seems less qualified. Both have histories of being more political animals than legal professionals. Just as bringing Piskun back as Prosecutor-General was a choice of the slightly lesser evil, Yushchenko could end up with two new judges that are only slightly better than the ones he just dismissed. End comment.

Bio Notes: New Judges Are Mixed Bag

9 (C) Stepan Havrysh, whose specialty is criminal law, was nominated to be a CC judge by Regions in 2005, but he declined the nomination. He is currently a member of the High Council of Justice, a powerful body within the judicial system that plays a role in monitoring and punishing judges. Some commentators have described him as chameleon-like, while others praised him as reasonable. In his eight years in the Rada, he served in several pro-presidential factions, including the Regions predecessor. He was Deputy Rada Speaker from 2000-2002. Since the Orange Revolution Havrysh has publicly portrayed himself as a centrist and has said he was searching for peace and consolidation between Blue and Orange. In a 2006 press interview, he praised Regions financier Akhmetov and the positive role big business could play in Ukrainian politics and talked about closed-door negotiations between the oligarch and Yushchenko. His daughter was elected as a local council member in Kharkiv on the BYuT ticket.

¶10. (C) Vasyl Kostyskiy, who hails from Ivano-Frankivsk, has worked as a deputy Finance Minister, deputy Minister of Environment, first deputy head of the State Judicial Administration, and as an adviser to then President Kuchma. His older brother, Mykhaylo, served as a CC judge and had a self-acknowledged reputation for letting politics influence his judicial opinions.

Small Steps Towards Elections Continue

¶11. (SBU) Yushchenko also met with CEC Chair Davydovych late on May 3 to get an update on election preparations. Press reports indicate that Davydovych said that the postponement of the elections until June 24 had increased the CEC's

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ability to successfully prepare for the vote. He also said that formation of the District Election Commissions (DECs) remained a problem. (Note. All five parties currently sitting in the Rada are supposed to submit nominees to serve as election commissioners. The deadline was midnight May 3, but the three coalition parties did not comply, and Davydovych announced an extension for nominations late on May ¶4. If the election date is changed again as expected, the timetable for all preparations will also change. End note.) Yushchenko had a meeting scheduled for late May 4 to discuss elections with Ukraine's governors; the governors were then scheduled to sit down with the CEC.

¶12. (SBU) Small steps towards providing financing for a possible election were also taken. The Rada passed a resolution calling on the CabMin to take steps to finance early elections, although they stuck to their caveat that the elections would be concurrent presidential and parliamentary

votes. The CabMin also allocated UAH 125 million to establish a voter registry list; the sum was almost 50 million UAH more than the CEC asked for suggesting that there could be additional money that could be used for other aspects of an election. (Note. The voter registry list is a positive step for conducting transparent and fair elections, but is not scheduled to come into force until October 1. End note.)

¶13. (U) Visit Embassy Kyiv's classified website:
www.state.sgov.gov/p/eur/kiev.
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